

STATEMENT OF PURPOSE

RS 19999

The purpose of this legislation is to amend Chapter 6, Title 42, Idaho Code to clarify language, remove outdated or unused sections, reduce duplication of sections or language, and streamline sections and processes pertaining to water district watermasters and treasurers and water district budgets. Specific changes to each section are described below.

FISCAL NOTE

No impact on the General Fund or any other account. This legislation should reduce staff time for the Department and for water districts by clarifying procedures and reducing paperwork and other tasks.

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STATEMENT OF PURPOSE/FISCAL NOTE

Bill No.



LEGISLATURE OF THE STATE OF IDAHO



Sixty-first Legislature

First Regular Session - 2011

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO WATER; AMENDING SECTION 42-605, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE REMOVAL OF WATERMASTERS BY THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES, TO PROVIDE A PROCEDURE, TO REVISE VERBIAGE RELATING TO OATHS AND TO PROVIDE THAT CERTAIN WATERMASTERS SHALL NOT BE REQUIRED TO TAKE AND FILE ADDITIONAL OATHS; AMENDING SECTION 42-605A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CONTEST OF AMOUNTS OF ASSESSMENTS FOR NONCONSUMPTIVE WATER RIGHTS, TO PROVIDE A PROCEDURE FOR THE DIRECTOR AND TO PROVIDE FOR THE REVIEW OF SPECIFIED ORDERS; REPEALING SECTION 42-606, IDAHO CODE, RELATING TO REPORTS OF WATERMASTERS; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-606, IDAHO CODE, TO PROVIDE FOR REPORTS OF WATERMASTERS; REPEALING SECTION 42-607, IDAHO CODE, RELATING TO THE DISTRIBUTION OF WATER; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-607, IDAHO CODE, TO PROVIDE FOR THE DUTIES OF WATERMASTERS RELATING TO THE DISTRIBUTION OF WATER, TO CLARIFY THE PRIORITY OF CERTAIN WATER RIGHTS RELATING TO DISTRIBUTION DURING SCARCITY OF WATER AND TO PROVIDE THAT NO WATER USER CAN ADVERSELY POSSESS THE RIGHT OF ANOTHER WHERE THERE IS AN ELECTED WATERMASTER CHARGED WITH ADMINISTRATION; AMENDING SECTION 42-608, IDAHO CODE, TO PROVIDE TERM OF SERVICE PROVISIONS RELATING TO WATERMASTERS, TO PROVIDE FOR THE ASSUMPTION OF DUTIES BY WATERMASTERS, TO REVISE PROVISIONS RELATING TO THE CESSATION OF PERFORMANCE OF SERVICES FOR THE DISTRIBUTION AND CONTROL OF WATER, TO REVISE AND TO PROVIDE FACTORS UNDER WHICH WATERMASTER SERVICES SHALL BE EXTENDED, TO PROVIDE FOR PAYMENT FOR EXTENDED TERMS OF SERVICE AND TO PROVIDE THAT AMOUNTS PAID FOR EXTENDED TERMS OF SERVICE SHALL BE INCLUDED IN THE CALCULATION OF ASSESSMENT AMOUNTS AND RATES FOR THE PURPOSE OF DETERMINING VOTING RIGHTS; REPEALING SECTION 42-610, IDAHO CODE, RELATING TO WATERMASTER AND ASSISTANT COMPENSATION; REPEALING SECTION 42-613, IDAHO CODE, RELATING TO THE FILING AND COLLECTION OF BUDGETS AND ACCOUNTS; AMENDING CHAPTER 6, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-613, IDAHO CODE, TO PROVIDE FOR THE FILING OF APPROVED BUDGETS AND RESOLUTIONS, TO PROVIDE DUTIES AND PROCEDURES FOR CERTAIN COUNTY AUDITORS AND TREASURERS, TO PROVIDE FOR SPECIFIED RESOLUTIONS AND TO REQUIRE CERTAIN NOTICES SET FORTH INFORMATION RELATING TO ADOPTED RESOLUTIONS; AMENDING SECTION 42-615, IDAHO CODE, TO REVISE PROVISIONS RELATING TO PROPOSED BUDGETS FOR SUCCEEDING YEARS; REPEALING SECTION 42-617, IDAHO CODE, RELATING TO SPECIFIED RESOLUTIONS AND THE COLLECTION OF ASSESSMENTS; REPEALING SECTION 42-618, IDAHO CODE, RELATING TO THE COLLECTION OF SPECIFIED EXPENSES BY WATERMASTERS AND PROCEDURES IN THE EVENT OF NONPAYMENT; AND AMENDING SECTION 42-619, IDAHO CODE, TO DELETE REFERENCE TO ALTERNATE PLANS FOR PAYMENT OF EXPENSES, TO PROVIDE FOR THE PAYMENT OF SPECIFIED COMPENSATION AND OTHER CHARGES AGAINST WATER DISTRICTS BY CERTAIN COUNTIES, TO REVISE CODE REFERENCES, TO PROVIDE THAT CERTAIN WATER

1 USERS SHALL PROVIDE FOR THE ELECTION OR APPOINTMENT OF WATER DISTRICT
2 TREASURERS, TO PROVIDE THAT CERTAIN TREASURERS SHALL NOT BE REQUIRED TO
3 TAKE AND FILE ADDITIONAL OATHS, TO REFERENCE A CODE PROVISION SETTING
4 FORTH THE MANNER OF REMOVAL OF WATER DISTRICT TREASURERS, TO PROVIDE
5 THAT IN COUNTIES MEETING SPECIFIED CRITERIA WATER USERS MAY AUTHORIZE
6 THE ELECTION OR APPOINTMENT OF WATER DISTRICT TREASURERS AND TO REVISE
7 PROVISIONS RELATING TO THOSE DISTRICTS THAT MAY AUTHORIZE WATERMASTERS
8 TO SERVE AS WATER DISTRICT TREASURERS.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 42-605, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 42-605. DISTRICT MEETINGS -- WATERMASTER AND ASSISTANTS -- ELECTION
13 -- REMOVAL -- OATH AND BOND -- ADVISORY COMMITTEE. (1) There shall be held on
14 the first Monday in March in each year, and, except as provided in subsection
15 (2) of this section, commencing at two o'clock P.M., a meeting of all persons
16 owning or having the use of a water right, in the waters of the stream or water
17 supply comprising such district, which right has been adjudicated or decreed
18 by the court or is represented by valid permit or license issued by the de-
19 partment of water resources.

20 (2) Such meeting shall be held at some place within the water district,
21 or at some nearby location convenient to a majority of those entitled to vote
22 thereat, which place shall be designated by the director of the department
23 of water resources. The director shall, at least twenty-one (21) days prior
24 to the meeting date, send notification by regular mail to all persons, com-
25 panies or corporations known by the director to hold rights to the use of the
26 waters of such district, which right has been adjudicated or decreed by the
27 court or is represented by valid permit or license issued by the department
28 of water resources, of the time, date, location and purpose of the annual
29 meeting. At any annual meeting the water users may vote to waive the require-
30 ment for notice by mail and provide for notice to be given for future meetings
31 by publication of the time, date, location and purpose of the meeting in a
32 newspaper or newspapers in general circulation in the district. Published
33 notice shall be made once per week for two (2) consecutive weeks with the sec-
34 ond notice appearing at least fourteen (14) and not more than thirty (30)
35 days prior to the meeting. In water districts whose area includes land in
36 more than four (4) counties the annual meeting shall commence at ten o'clock
37 A.M. instead of two o'clock P.M.: provided, that the water users of any wa-
38 ter district may, by resolution adopted at an annual meeting or at a special
39 meeting properly called for that purpose, change the time of day when the
40 meeting shall commence or change the date for annual meetings in subsequent
41 years to any day except Saturday and Sunday between the second Monday of Jan-
42 uary and the third Monday in March or change both the time and the date, in
43 which case the director of the department of water resources shall send no-
44 tification at least twenty-one (21) days prior to said meeting date. At an
45 annual meeting the water users may adopt resolutions to assure or improve the
46 distribution of the waters of the district within state law, and may provide
47 that such resolutions shall continue from year to year.

1 (3) At the meeting of the water users of a district there shall be
2 elected a watermaster for such water district, who may be authorized to
3 employ such other regular assistants as the water users shall deem neces-
4 sary, and who, upon appointment by the director of the department of water
5 resources, shall be responsible for distribution of water within said water
6 district, and the water users shall, prior to the election of such water-
7 master and approval of the employment of assistants, fix the compensation
8 to be paid them during the time actually engaged in the performance of their
9 duties.

10 (4) Voting shall be by majority vote of the water users present at the
11 meeting unless one (1) or more water users requests voting using the pro-
12 cedure which follows in this subsection. In such case the meeting chair-
13 man shall appoint a credentials committee to determine the number of votes
14 each water user present is authorized to cast. If requested, each person
15 present, owning or having the use for the ensuing season of any water right
16 in the stream or water supply comprising such water district, which right has
17 been adjudicated or decreed by the court or is represented by valid permit
18 or license issued by the department of water resources, shall be entitled to
19 a number of votes equal to the average annual dollar amount and any fraction
20 thereof assessed for that person's qualifying water right for the previous
21 five (5) years, or such lesser number of years as the right has been assessed.
22 If a right has not previously been assessed, a person present, owning or hav-
23 ing the use of the right for the ensuing season shall be entitled to a number
24 of votes equal to the dollar amount and any fraction thereof which the right
25 would have been assessed had it existed and been reasonably used when water
26 was available under the priority of the right during the previous season.

27 (5) At such meeting the water users shall choose a meeting chairman and
28 meeting secretary and shall determine the manner and method of electing the
29 watermaster. The water users shall, at the annual meeting, provide for the
30 water district treasurer functions in accordance with section 42-619, Idaho
31 Code. Within five (5) days after such meeting the meeting chairman and meet-
32 ing secretary shall forward a certified copy of the minutes of such meeting
33 to the department of water resources. The meeting chairman, or the meeting
34 secretary, if the meeting chairman is not present, from the immediately pre-
35 ceding annual meeting shall call the meeting to order and preside over the
36 election of officers for the meeting.

37 (6) At such meeting the water users may choose an advisory committee to
38 be composed of members selected as may be determined at the meeting, which
39 committee shall serve as advisors to the director and the watermaster in mat-
40 ters pertaining to the distribution of water within the district. The advi-
41 sory committee may be authorized to carry out policies as set forth in reso-
42 lutions duly adopted by the water users at the annual meeting or at a special
43 meeting. The advisory committee may also serve as the local committee to fa-
44 cilitate the rental of stored water if appointed by the water resource board
45 for such purpose under the provisions of section 42-1765, Idaho Code.

46 (7) A corporation or a water delivery organization, including, but not
47 limited to a corporation, a water company, an irrigation district, an irri-
48 gation company or a canal company, shall be considered a person for the pur-
49 pose of this section and shall cast its vote by someone to be designated by
50 the corporation.

1 (8) Should said meeting not be held, or should said watermaster not be
2 elected or the watermaster's compensation not be fixed as above provided,
3 then the director of the department of water resources is authorized to ap-
4 point a watermaster and fix the watermaster's compensation.

5 (9) The director of the department of water resources may remove ~~any~~
6 ~~a watermaster whenever such the watermaster fails to perform the watermas-~~
7 ~~ter's duty, upon complaint in that respect being made to the director in~~
8 ~~writing, by one (1) person owning or having the right to the use of a water~~
9 ~~right in such district, which right has been adjudicated or decreed by the~~
10 ~~court or is represented by valid permit or license issued by the department~~
11 ~~of water resources provided, that upon investigation the director, after a~~
12 ~~hearing with the other water users of said district, which shall be held in~~
13 ~~the district or at some location convenient to the water users of the dis-~~
14 ~~trict, finds such charge to be true, and the director may appoint a successor~~
15 ~~for the unexpired term duties as provided in title 42, Idaho Code, or duties~~
16 ~~as may be further provided by rule promulgated pursuant to title 42, Idaho~~
17 ~~Code. An investigation shall be commenced by the director upon reasonable~~
18 ~~belief by the director that the watermaster has failed to perform his duties,~~
19 ~~or upon response to a written complaint to the director by a person owning or~~
20 ~~having the right to the use of a water right in the district, which right has~~
21 ~~been adjudicated or decreed by the court or is represented by a valid permit~~
22 ~~or license issued by the department of water resources, provided that the~~
23 ~~written complaint gives reason for removal of the watermaster and specifies~~
24 ~~the duty or duties not performed by the watermaster. Upon receipt of a~~
25 ~~written complaint, if the director determines that the written complaint~~
26 ~~provides sufficient detail to commence an investigation, the director shall~~
27 ~~provide a copy of the complaint to the watermaster and allow fourteen (14)~~
28 ~~days for the watermaster's written response to the complaint. Investigation~~
29 ~~of the matter by the director may include providing notice of the complaint~~
30 ~~to the other water users of the district which allows fourteen (14) days for~~
31 ~~written response to the complaint, or providing notice and hearing with the~~
32 ~~other water users of the district, which may be held in the district or at~~
33 ~~some location convenient to the water users of the district. The director~~
34 ~~shall examine all the evidence and available information gathered through~~
35 ~~the investigation. If the investigation by the director finds the charge~~
36 ~~against the watermaster to be true, the director may remove the watermaster~~
37 ~~and may appoint a successor for the unexpired term.~~

38 (10) Before entering upon the duties of the watermaster's office, said
39 watermaster shall take and subscribe to an oath before some officer autho-
40 rized by the laws of the state to administer oaths, to faithfully perform
41 the duties of the watermaster's office, as provided in section 42-607,
42 Idaho Code, and shall file that oath with the department of water resources.
43 Upon appointment by the director of the department of water resources, the
44 actions taken by a watermaster in fulfillment of the duties of his office
45 are covered by the state group surety bond as provided by sections 59-801
46 through 59-804, Idaho Code. A duly appointed watermaster that is reelected
47 for one (1) or more consecutive years shall not be required to take and file
48 additional oaths with the department of water resources for each consecutive
49 year the watermaster is reelected.

1 (11) The director shall call a special meeting of the water users of a
2 district upon receipt of a written request for such meeting from a majority
3 of the members of the advisory committee for a district, a written request
4 from water users representing thirty percent (30%) or more of the votes cast
5 at the last regular annual meeting, a written request from the watermaster or
6 on the director's own motion if the director determines a meeting is neces-
7 sary to address matters that cannot be delayed until the next regular annual
8 meeting. Notice of the time, place and purpose of the special meeting shall
9 be given by the director in the manner provided in subsection (2) of this sec-
10 tion, provided however, that a special meeting notice shall be sent at least
11 fourteen (14) days prior to the meeting date.

12 (12) The water users may, by resolution, authorize the watermaster to
13 acquire, hold and dispose of such real and personal property, equipment and
14 facilities in the name of the water district as necessary for the proper dis-
15 tribution of water and shall provide that all such real and personal property
16 shall remain in the custody of the watermaster and the watermaster's succes-
17 sor.

18 SECTION 2. That Section 42-605A, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 42-605A. NONCONSUMPTIVE WATER RIGHTS -- ASSESSMENTS -- VOTING. (1)
21 Notwithstanding other provisions of this chapter, the setting of annual
22 water district assessments and the voting of permitted, licensed and decreed
23 water rights administered by the watermaster solely for nonconsumptive
24 purposes shall be determined in accordance with the provisions of this
25 section. For purposes of this chapter, a water right is nonconsumptive if so
26 designated by provisions of the permit or license issued by the department of
27 water resources, or otherwise so designated by the director, or by decree of
28 the court allowing use of the right to continue when the diversion of earlier
29 priority water rights from the same source has been reduced or stopped by
30 action of the watermaster.

31 (2) A nonconsumptive water right is subject to the provisions of
32 this section if water is taken into man-made facilities for beneficial
33 use whether or not the water leaves the river or stream channel. Instream
34 flow water rights held in the name of governmental entities or agencies
35 for the protection of fish and wildlife habitat, aquatic life, recreation,
36 aesthetic beauty, transportation and navigation values, and water quality
37 shall be exempt from the payment of assessments and the rights shall not be
38 voted. The procedure for collection and payment of the assessments shall be
39 the same as used for consumptive water rights under this chapter.

40 (3) In preparing the next year's budget, the watermaster shall deter-
41 mine an assessment for the ensuing year for each water right used solely for
42 nonconsumptive purposes. The assessment shall be sufficient to pay the ad-
43 ditional costs and expenses for watermaster services for data collection,
44 water measurement, delivery of water, and record keeping directly attribut-
45 able to delivery of the water right.

46 (4) The assessment shall not become final until adopted as part of the
47 water district budget at the annual meeting of water users in accordance with
48 section 42-612, Idaho Code. The assessment shall not exceed an amount nec-
49 essary to pay for watermaster services associated with the nonconsumptive

1 right. Nothing in this section shall affect the right, under section 42-612,
2 Idaho Code, of the water users at the annual meeting to provide by resolution
3 for a minimum charge for watermaster services, except as to those instream
4 flow rights exempt from the payment of assessments under this section.

5 (5) The holder of a water right assessed under the provisions of this
6 section who desires to contest the amount of an assessment for a nonconsump-
7 tive water right shall file a written petition with the director of the de-
8 partment of water resources stating the grounds for contesting the assess-
9 ment ~~and requesting a hearing~~. The petition must be filed with the director
10 within thirty (30) days after the billing is mailed to the holder of the water
11 right as provided in section 42-613 ~~or 42-618~~, Idaho Code. ~~The hearing be-~~
12 ~~fore the director and any judicial review thereof shall be in accordance with~~
13 ~~the provisions of~~ Upon receiving the petition, the director shall cause an
14 investigation to be made and may hold hearings or gather information in other
15 ways. If the director finds that the amount of the assessment for a noncon-
16 sumptive water right should be changed, the director may issue an order modi-
17 fying the amount of the assessment. Any person feeling aggrieved by an order
18 of the director in response to a petition filed as herein provided shall be
19 entitled to review as provided in section 42-1701A, Idaho Code. The filing
20 of a petition under this section shall not relieve the holder of a noncon-
21 sumptive water right from the obligation to pay the assessment when due and
22 payable. The amount of any excessive or deficient assessment determined by a
23 final order of the director shall be credited or collected in the succeeding
24 year in the manner provided under section 42-606, Idaho Code.

25 (6) At water district meetings, each person present holding a water
26 right used solely for nonconsumptive purposes shall be entitled to a number
27 of votes equal to the average dollar amount and any fraction thereof as-
28 sessed in accordance with subsection (3) of this section for that person's
29 qualifying nonconsumptive water right for the previous five (5) years, or
30 such lesser number of years as the right has been assessed in accordance
31 with subsection (3) of this section. If a nonconsumptive right has not been
32 assessed in previous years using subsection (3) of this section, a person
33 present owning or having the use of the right for the ensuing season shall
34 be entitled to a number of votes equal to the dollar amount and any fraction
35 thereof which the right is assessed under subsection (3) of this section for
36 the ensuing season.

37 SECTION 3. That Section 42-606, Idaho Code, be, and the same is hereby
38 repealed.

39 SECTION 4. That Chapter 6, Title 42, Idaho Code, be, and the same is
40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
41 ignated as Section 42-606, Idaho Code, and to read as follows:

42 42-606. REPORTS OF WATERMASTERS. (1) All water district watermasters
43 shall annually, prior to the expiration of their appointment for the year,
44 make and certify a report to the department of water resources, using a form
45 prescribed or approved by the director of the department of water resources,
46 containing information required by the director. The report shall show:

47 (a) The total volume of water delivered by the watermaster during the
48 preceding year, stated either in cubic feet per second delivered to each

1 user each day, or in acre-feet delivered to each user during the year or
2 period of delivery;

3 (b) The total expense of delivery and the apportionment of expenses
4 among users; and

5 (c) All debits and credits to be carried over to the following year, un-
6 less the water users of the water district have adopted the procedure
7 provided in section 42-612(5), Idaho Code.

8 (2) The watermaster shall annually report diversions of water from the
9 public water supply to the department of water resources, along with records
10 of stream flow the watermaster used or made in the process of distributing
11 water supplies, using forms prescribed or approved by the director of the de-
12 partment of water resources.

13 (3) The director may ask for other information deemed necessary in as-
14 suring proper distribution of water supplies within the district.

15 (4) The reports of watermasters to the department of water resources
16 shall be filed and kept in the office of the department.

17 SECTION 5. That Section 42-607, Idaho Code, be, and the same is hereby
18 repealed.

19 SECTION 6. That Chapter 6, Title 42, Idaho Code, be, and the same is
20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
21 ignated as Section 42-607, Idaho Code, and to read as follows:

22 42-607. DUTIES OF WATERMASTER -- DISTRIBUTION OF WATER. (1) It shall
23 be the duty of the watermaster to distribute the waters of the public stream,
24 streams or water supply comprising a water district as follows:

25 (a) Distribute water among the diversions from the public stream,
26 streams or water supply according to the priority of water rights of
27 each respectively on record with the department of water resources, in
28 whole or in part, and when necessary in times of water scarcity, shut
29 and fasten, or cause to be shut or fastened, under the direction of the
30 department of water resources, the headgates or controlling works for
31 diversions of water from the public stream, streams or water supply;

32 (b) In fulfilling the duties described in subsection (1)(a) of this
33 section, the watermaster shall measure and record diversions of water
34 from the public stream, streams or water supply and annually report such
35 diversions to the department of water resources as provided in section
36 42-606(2), Idaho Code;

37 (c) Under the direction of the department of water resources, curtail
38 or cause curtailment of the diversion of any water determined to be
39 diverted without a valid water right or in violation of a valid water
40 right;

41 (d) All other duties as may be provided by any statute, or by any rule
42 promulgated by the department of water resources, or by any adjudi-
43 cated, decreed, permitted or licensed water right condition.

44 (2) Any person or corporation claiming the right to the use of water
45 from a public stream, streams or water supply comprising a water district,
46 but not owning or having the use of an adjudicated or decreed right, or
47 a right evidenced by permit or license issued by the department of water
48 resources, shall, for the purposes of distribution during the scarcity

1 of water, be held to have a right subsequent to any adjudicated, decreed,
2 permitted or licensed right in the public stream, streams or water supply,
3 and the watermaster shall curtail all diversions having no adjudicated,
4 decreed, permitted or licensed right if necessary to supply water for
5 adjudicated, decreed, permitted or licensed water rights from the public
6 stream, streams or water supply.

7 (3) So long as a duly elected watermaster is charged with the adminis-
8 tration of the waters within a water district, no water user within such dis-
9 trict can adversely possess the right of any other water user.

10 SECTION 7. That Section 42-608, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 42-608. WATERMASTER'S TERM OF SERVICE. (1) ~~A watermaster shall not be-~~
13 ~~gin work until called upon by one (1) or more owners or managers of ditches or~~
14 ~~persons controlling ditches or other diversion facilities, in the district,~~
15 ~~by application in writing to the department of water resources, stating that~~
16 ~~there is a necessity for the use and control of the waters of such district~~
17 The director of the department of water resources, upon receipt of a certi-
18 fied copy of the meeting minutes and the oath of the watermaster as provided
19 for in section 42-605, Idaho Code, shall appoint the watermaster to a term of
20 service throughout the year, extending until the annual meeting for the en-
21 suing year, or until a successor is appointed. A full-year appointment of
22 the watermaster by the director shall have no effect on the watermaster's
23 compensation fixed by the water users at the annual water district meeting
24 as provided for in section 42-605, Idaho Code.

25 (2) ~~In the absence of application or in water districts in which there~~
26 ~~are five (5) or fewer adjudicated water rights, the watermaster may be called~~
27 ~~upon to assume the watermaster's duties at any time the department of water~~
28 ~~resources finds that there is a necessity for the use and control of the wa-~~
29 ~~ters of the district~~ A watermaster shall not begin work for the distribution
30 and control of water required under section 42-607, Idaho Code, until called
31 upon by one (1) or more owners or managers of ditches or persons controlling
32 ditches or other diversion facilities in the district. In the absence of a
33 call by one (1) or more water users, the watermaster may be called upon to as-
34 sume the watermaster's duties at any time the department of water resources
35 finds that there is a necessity for the distribution and control of the wa-
36 ters of the district.

37 (3) The watermaster shall not continue performing services for the
38 distribution and control of water after the necessity therefor shall cease,
39 which shall be determined by the department of water resources, and which
40 shall not be after the first of November of each year, unless determined nec-
41 essary by the director of the department of water resources, or is otherwise
42 provided by a resolution adopted at the annual water users' meeting for said
43 the water district, or upon receipt of a petition requesting an extension
44 of the watermaster's term of service in any year from the holder of a water
45 right authorizing the diversion or storage of water during the time period
46 for which the extension is sought and upon a determination of necessity
47 for the diversion or storage of water. Payment for watermaster services
48 during the extended term of service ordered by the director shall be the
49 responsibility of the holders of water rights delivered by the watermaster

1 during the extended term of service. For the purpose of determining voting
2 rights at a water district meeting, amounts paid for watermaster services
3 pursuant to this subsection shall be included in the calculation of annual
4 assessment amounts and assessment rates under sections 42-605, 42-605A and
5 42-605B, Idaho Code.

6 (4) At any annual meeting the water users may, by resolution, provide
7 that the watermaster shall serve throughout the year, or for a set term dur-
8 ing each year, for purposes of distribution and control as provided in sec-
9 tion 42-607, Idaho Code. ~~The department of water resources, upon receipt of~~
10 ~~a certified copy of the minutes of said meeting containing such resolution~~
11 ~~and upon the receipt of the oath of said watermaster, as provided for in sec-~~
12 ~~tion 42-605, Idaho Code, shall immediately issue a certificate of appoint-~~
13 ~~ment ordering said watermaster to assume the watermaster's duties at once~~
14 ~~and continue the same throughout the year as provided for in said resolution.~~

15 ~~(5) The director of the department of water resources, upon receipt of~~
16 ~~a petition requesting an extension of the watermaster's term of service in~~
17 ~~any year from the holder of a water right authorizing the diversion or stor-~~
18 ~~age of water during the time period for which the extension is sought and upon~~
19 ~~a determination of necessity therefor shall extend the watermaster's term~~
20 ~~of service for the period of time determined necessary by the director in~~
21 ~~any year. Payment for watermaster services during the extended term of ser-~~
22 ~~vice ordered by the director shall be the responsibility of the holders of~~
23 ~~water rights delivered by the watermaster during the extended term of ser-~~
24 ~~vice. For the purpose of determining voting rights at a water district meet-~~
25 ~~ing, amounts paid for watermaster services pursuant to this subsection shall~~
26 ~~be included in the calculation of annual assessment amounts and assessment~~
27 ~~rates under sections 42-605 and 42-605A, Idaho Code.~~

28 SECTION 8. That Section 42-610, Idaho Code, be, and the same is hereby
29 repealed.

30 SECTION 9. That Section 42-613, Idaho Code, be, and the same is hereby
31 repealed.

32 SECTION 10. That Chapter 6, Title 42, Idaho Code, be, and the same is
33 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
34 ignated as Section 42-613, Idaho Code, and to read as follows:

35 42-613. BUDGET -- FILING OF RESOLUTIONS AND COPIES -- COLLECTION --
36 TIME FOR COLLECTION OF BUDGET -- WATER NOT DELIVERED UNTIL CHARGES PAID. (1)
37 The approved budget shall be filed with the meeting secretary. The water-
38 master or water district treasurer shall then immediately prepare and file a
39 certified copy of the budget, along with a copy of all resolutions adopted at
40 the annual meeting under the provisions of this section, with the director of
41 the department of water resources.

42 (2) In any water district where the water users at the meeting have,
43 by resolution, designated the county auditor to collect the expenses of the
44 district, a certified copy of the budget, along with a copy of all resolu-
45 tions adopted at the meeting and under the provisions of this section, shall
46 be filed with the county auditor of the county or counties so designated.
47 If more than one (1) county is designated, then the budget shall show the

1 amount to be collected in each county and the water users from which each
2 county shall make collection. Each auditor of the county or counties so des-
3 ignated, shall immediately make up a roll showing the amount of the budget to
4 be collected by the county and the ditch, canal company, irrigation district
5 or other water user from whom the same shall be collected and the respective
6 amounts from each. When the roll is completed, the county auditor shall de-
7 liver the same to the county treasurer for collection. The county treasurer
8 shall thereupon mail a notice to each ditch, canal company, irrigation dis-
9 trict or other water user of the amount payable by each such water user, for
10 the distribution of water and other expenses of the district for the ensuing
11 year.

12 The county treasurer, upon receipt of the roll, shall open a special ac-
13 count to be known as "Water District Funds" and shall credit to the ac-
14 count all moneys received from the water users of the district. It is hereby
15 declared the duty of the respective county auditors and treasurers to per-
16 form the services herein required whenever the water users have, by resolu-
17 tion at the annual water district meeting, designated a county to collect the
18 expenses of the district.

19 (3) In water districts the water users may, by resolution at any an-
20 nual meeting, authorize the watermaster or water district treasurer to col-
21 lect the watermaster's compensation and that of his assistants, and other
22 expenses of delivering water within the district, directly from the water
23 users, canal companies and irrigation districts. When so authorized, the
24 watermaster shall collect such compensation and expenses directly from the
25 water users and shall turn the collected funds over to the water district
26 treasurer for deposit and disbursement in accordance with section 42-619,
27 Idaho Code.

28 (4) In any water district, whether expenses are collected from water
29 users either by a county or directly by the water district watermaster or wa-
30 ter district treasurer, the water users may, by resolution at an annual meet-
31 ing, fix a date upon which amount shall be due and payable for said year and
32 if not so paid, shall bear a penalty not to exceed ten percent (10%) of the
33 amount owed and interest of one percent (1%) per month, which both shall be
34 fixed by resolution, from said date until paid.

35 (5) The water users at an annual meeting may also, by resolution, pro-
36 vide that the watermaster shall not deliver water to any water user until the
37 amount due and payable from such user, as shown by the budget adopted at the
38 meeting, has been paid.

39 (6) Notice of the amount due by each water user, as shown by the adopted
40 budget at the meeting, to be mailed to each respective water user by the
41 county treasurer, water district watermaster or water district treasurer,
42 shall also state the substance of any resolution adopted pursuant to subsec-
43 tions (3), (4) and (5) of this section.

44 SECTION 11. That Section 42-615, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 42-615. PROPOSED BUDGET FOR SUCCEEDING YEAR. Each watermaster shall,
47 at least ~~thirty~~ fourteen (3014) days prior to the annual meeting of the wa-
48 ter users of the water district, also prepare ~~and file with the department of~~
49 ~~water resources~~ a proposed budget for the succeeding year, together with a

1 distribution of the amount of ~~said~~ the budget to the respective water users,
2 using the actual deliveries for the past irrigation season or seasons, as the
3 basis for ~~said~~ distribution as hereinabove provided, which ~~said~~. The pro-
4 posed budget and distribution shall be submitted to the water users for con-
5 sideration and approval at the next annual water meeting.

6 SECTION 12. That Section 42-617, Idaho Code, be, and the same is hereby
7 repealed.

8 SECTION 13. That Section 42-618, Idaho Code, be, and the same is hereby
9 repealed.

10 SECTION 14. That Section 42-619, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 42-619. ~~ALTERNATE PLAN FOR PAYMENT OF DISTRICT EXPENSES.~~ (1) For any
13 water district in which a county collects the expenses of the district from
14 water users pursuant to section 42-613(2), Idaho Code, the compensation of
15 the watermaster and his assistants and any other charges against the water
16 district shall be paid from the funds of the special account in the same man-
17 ner as bills against the county are paid.

18 (2) The county commissioners of any county having determined that pro-
19 viding the service of payment of water district expenses by the county trea-
20 surer from water district funds pursuant to section 42-613, Idaho Code, is
21 an undue burden upon the county and shall no longer be provided, shall notify
22 the director of the department of water resources of this action by December
23 1 in the year preceding the year for which the action shall first be effective
24 by providing to the director a certified copy of the resolution of the com-
25 missioners taking such action.

26 (23) Notice of the action of the county commissioners shall be given to
27 the water users of the district by the department of water resources together
28 with the notice of the annual meeting given pursuant to section 42-605, Idaho
29 Code.

30 (34) At each annual meeting of a district for which the county commis-
31 sioners have taken the action provided for in subsection (12) of this sec-
32 tion, or for which the water users have taken the action provided for in sec-
33 tion 42-613(3), Idaho Code, the water users shall provide for the election
34 or appointment of a water district treasurer. If a water district treasurer
35 is not elected at the annual meeting, and one is found to be necessary, the
36 director of the department of water resources shall appoint a water district
37 treasurer. The water district treasurer shall keep a complete, accurate and
38 permanent record of all moneys received by and disbursed for and on behalf
39 of the district. The water district treasurer shall deposit all moneys of
40 the district in a designated depository approved at the annual meeting, and
41 shall comply with the public depository law as contained in chapter 1, title
42 57, Idaho Code.

43 (45) Before undertaking the duties of the office, the water district
44 treasurer shall take and subscribe to an oath before an officer authorized by
45 the laws of the state to administer oaths, to faithfully perform the duties
46 of the office, and shall file the oath with the director of the department of
47 water resources. Upon issuance by the director of a certificate confirming

1 the election or appointment of a water district treasurer, the actions taken
2 by the water district treasurer in fulfillment of the duties of the office
3 are covered by the state group surety bond as provided in sections 59-801
4 through 59-804, Idaho Code. A duly appointed treasurer that is reelected
5 for one (1) or more consecutive years shall not be required to take and file
6 additional oaths with the department of water resources for each consecutive
7 year the treasurer is reelected.

8 (56) The water district treasurer shall serve until a successor is
9 elected or appointed, and qualified. A water district treasurer may be
10 removed from office by the director for failure to perform the duties of the
11 office in the manner provided for removal of a watermaster as provided by
12 section 42-605(9), Idaho Code.

13 (67) Compensation for the services of the water district treasurer
14 shall be set at the annual meeting and may be established on a fixed-sum, per
15 diem, or voluntary basis. If a water district treasurer is appointed by the
16 director in the absence of being elected at the annual meeting, the director
17 shall fix the compensation to be paid, if any.

18 (78) With respect to any district for which the county commissioners
19 have taken the action provided for in subsection (42) of this section, or
20 for which the water users have taken the action provided for in subsection
21 (101) of this section and have notified the county thereof, the county au-
22 ditor shall in the time and manner provided by section 63-1202, Idaho Code,
23 transmit to the water district treasurer of the water district a settlement
24 of all moneys belonging to such district paid into the county treasury and
25 apportioned to such water district on or after the second Monday of the pre-
26 ceding month; provided, however, that in the months of July and January the
27 money may be transmitted no later than the 25th of the month. The treasurer
28 of the water district shall immediately deposit the funds in the designated
29 depository for the district.

30 (89) The treasurer of the water district shall only disburse moneys
31 from the water district account upon submission of a written voucher ap-
32 proved by the watermaster for expenses incurred for water district purposes
33 related to the delivery of water or by a voucher approved by the chairman of
34 the advisory committee for activities pursuant to resolutions adopted by
35 the water users from district funds or funds retained pursuant to section
36 42-613A, Idaho Code.

37 (910) It shall be the duty of the water district treasurer to prepare a
38 statement of the financial affairs of the district at the end of each fiscal
39 year and to file the statement with the director of the department of water
40 resources. An audit of the financial affairs of the district shall be made as
41 required in section 67-450B, Idaho Code. A certified copy of the audit shall
42 be filed with the director of the department of water resources following the
43 audit.

44 (101) In any water district for which the county collects the expenses
45 of the district pursuant to section 42-613(2), Idaho Code, but for which
46 the county commissioners have not taken the action provided for in subsection
47 (42) of this section, the water users may at the annual meeting of the dis-
48 trict approve a resolution authorizing the election or appointment of a wa-
49 ter district treasurer who shall exercise all duties and responsibilities of
50 a treasurer provided for in this section.

1 (11~~2~~) In water districts with an annual budget of ~~three~~ seven thousand
2 five hundred dollars (~~\$3,07,500~~) or less, the water users may, by resolution
3 adopted at the annual meeting, authorize the watermaster to serve as water
4 district treasurer. Watermasters in water districts with annual budgets in
5 excess of ~~three~~ seven thousand five hundred dollars (~~\$3,07,500~~) shall not be
6 authorized to act as water district treasurer.